

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)	Re: Resolution No. <u>CHI-99-02</u>
)	Dated: <u>February 24, 1999</u>
James J. Shoffner, an Officer)	
and Director of Middlesboro)	
Federal Bank, FSB, Middlesboro,)	
Kentucky)	

STIPULATION AND CONSENT TO ISSUANCE OF AN
ORDER OF ASSESSMENT OF CIVIL MONEY PENALTY

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, has informed James J. Shoffner ("Shoffner"), an Officer and Director, that OTS is of the opinion that grounds exist to initiate an administrative civil money penalty assessment proceeding against Shoffner pursuant to 12 U.S.C. Sec. 1817(j)(16). 1/

WHEREAS, the Director of the OTS has delegated to the Regional Directors of the OTS the authority to issue Orders of Assessment of Civil Money Penalties where the respondent has consented to the issuance of the order;

WHEREAS, Shoffner desires to cooperate with OTS and to avoid the time and expense of such administrative litigation and, without admitting or denying that such grounds exist, hereby stipulates and agrees to the following terms:

1/All references to the U.S.C. are as amended.

1. Jurisdiction. (a) Middlesboro Federal Bank, FSB, Middlesboro, Kentucky ("Middlesboro") (OTS No. 2438), is a "savings association" within the meaning of Section 3(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1813(b) and Section 2(4) of the Home Owners' Loan Act, 12 U.S.C. § 1462(4). Accordingly, it is an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

(b) Shoffner is an Officer and Director of the Institution and is an "institution-affiliated party" of the Institution as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u).

(c) Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q), the Director of the OTS is the "appropriate Federal banking agency" with jurisdiction over the Institution and persons participating in the conduct of the affairs thereof.

(d) The Director of the OTS has the authority to bring an administrative proceeding for a civil money penalty against persons participating in the conduct of the affairs of the Institution and institution-affiliated parties pursuant to 12 U.S.C. Sec. 1817(j)(16).

(e) Shoffner is subject to the authority of OTS to initiate and maintain administrative proceedings pursuant to 12 U.S.C. Sec. 1817(j)(16).

2. OTS Findings of Fact. The OTS finds that: Shoffner, on April 1 and July 30, 1997, violated 12 C.F.R. Sec. 574.3(b), pertaining to acquisition of control of a savings association, by purchasing stock of Cumberland Mountain

Bancshares Inc. ("Cumberland"), the holding company of Middlesboro, its wholly owned subsidiary savings association, without filing the required prior notice or rebuttal. Shoffner exacerbated the violations by not divesting in a timely manner said shares until November 17, 1997.

3. Consent. Shoffner consents to the issuance by the OTS of the accompanying Order of Assessment of Civil Money Penalty ("Order"). Shoffner further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of law.

4. Finality. The Order is issued under 12 U.S.C. Sec. 1817(j)(16). Upon its issuance by the Regional Director or designee for the Central Region, OTS, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i).

5. Waivers. Shoffner waives his right to a notice of assessment of civil money penalty provided by 12 U.S.C. Sec. 1817(j)(16)(E) and the administrative hearing provided by 12 U.S.C. Sec. 1817(j)(16)(F), and further waives any right to seek judicial review of the Order, including, without limitation, any such right provided by Section 8(h) of the FDIA, 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order.

6. Indemnification. Shoffner shall neither cause or permit Middlesboro or Cumberland (or any subsidiaries thereof) to incur, directly or indirectly, any expense for the amount of the civil money penalty assessed under the Order or any legal (or other professional expenses) incurred relative to the

negotiation and issuance of the Order, nor obtain any indemnification (or other reimbursement) from Middlesboro or Cumberland (or any subsidiaries thereof) with respect to such amounts. Any payments received by or on behalf of Shoffner in connection with this action shall be returned to Middlesboro or Cumberland.

7. Other Actions, Proceedings, and Parties. This Stipulation and the accompanying Order are issued solely to settle this proceeding. By entering into this Stipulation, Shoffner acknowledges and agrees explicitly to the following provisions:

(a) Shoffner acknowledges and agrees that this proceeding, the assessment or payment of the penalty contemplated as part of the resolution thereof, and Respondent's consent to the entry of the Order are for the purposes of resolving this OTS enforcement matter only. By signing this document, Shoffner agrees that he will not assert the assessment or payment of this penalty as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity.

The OTS and Shoffner acknowledge and agree that the imposition of the civil money penalty by the OTS, and the payment of such civil money penalty, are for the purpose of resolving the administrative civil money penalty assessment proceeding and all other potential administrative actions within the jurisdiction of OTS concerning Shoffner relating to matters known or discovered by OTS concerning stock purchases on April 1 and July 30, 1997, up to the date of entry of the Order.

The OTS further agrees that in the event Shoffner files an application pursuant to 12 C.F.R. Part 574, it shall not be denied pursuant to 12 C.F.R. Sec. 574.7(g) solely on the basis of the issuance of the Order.

(b) This Stipulation, the Order, and the payment by Shoffner of any monies or providing any other financial relief as contemplated by the Order, does not release, discharge, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of Shoffner that arise pursuant to this action or otherwise, and that may be or have been brought by any other governmental entity other than the OTS.

(c) Respondent's obligation to pay a civil money penalty pursuant to this Stipulation and Order shall not be dischargeable in bankruptcy under any circumstances.

WHEREFORE, Shoffner executes this Stipulation and Consent to Issuance of an Order of Assessment of Civil Money Penalty, intending to be legally bound hereby.

By:

Accepted by:

Office of Thrift Supervision


James J. Shoffner


Ronald N. Karr
Regional Director
Central Region

Date: 2/17/99

Date: 2-24-99

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Director of Middlesboro Federal Bank,)	
FSB, Middlesboro, Kentucky)	

ORDER OF ASSESSMENT OF CIVIL MONEY PENALTY

WHEREAS, James J. Shoffner ("Shoffner") has executed a Stipulation and Consent to Issuance of an Order of Assessment of Civil Money Penalty ("Stipulation"); and,

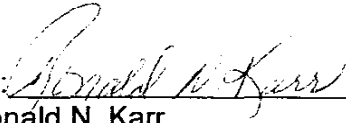
WHEREAS, Shoffner, in the Stipulation, has consented to the issuance of this Order of Assessment of Civil Money Penalty ("Order") pursuant to 12 U.S.C. Sec. 1817(j)(16). 1/

NOW THEREFORE, IT IS ORDERED that within thirty (30) days of the effective date of this Order, Shoffner shall pay to the OTS the sum of \$10,000, by tendering a certified check to the OTS in that amount made payable to the Treasurer of the United States. The check shall be sent, together with a cover letter stating the name of the association and the resolution number, and a copy of the Order, to the following address: Controller's Division, Office of Thrift

1/ All references to the U.S.C. are as amended.

Supervision, 1700 G Street, N.W., Washington, D.C. 20552. A copy of the cover letter to the Controller's Division, and a photocopy of the check shall be sent to Tracy Bauer, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, IL 60606.

OFFICE OF THRIFT SUPERVISION

By: 

Ronald N. Karr
Regional Director
Central Region